

Exhibit D
to the
Declaration Of Shawn G. Hansen In Support Of
Plaintiff EMG Technology, LLC's Response In
Opposition To Apple Inc.'s Motion To Vacate The
Deadlines In The Docket Control And Discovery
Orders And For A Case Management Conference

Hansen, Shawn

From: John Lane [JLane@fr.com]
Sent: Tuesday, November 24, 2009 1:15 PM
To: Hansen, Shawn
Cc: Garland Stephens; David Healey
Subject: FW: EMG v. Apple - Protective Order
Attachments: Redline.pdf

Shawn –

I haven't run these by Apple yet, but believe the comments below will move the discussion forward:

1. Apple will likely agree to the redlined changes on page 1, 2, 7, 25 and 28, and the changes to paragraph 10.
2. With respect to the deletion of the last sentence in paragraph 2(g) and the changes to the source code provisions in paragraph 11, we think it makes sense to have a call to see if we can narrow down what is in dispute, if anything. Having said that, to the extent it produces source code, Apple will not produce the digital-rights management sections of the source code, or any other sections that are not relevant to the litigation, and therefore will not produce a "complete, functional build environment for the Source Code of its accused instrumentalities."
3. Apple does not agree to the language added to paragraph 4(c), nor the changes on pages 5, 6 and 29.
4. In paragraph 8(b)(ii), Apple does not agree to the changes in the first line. Apple will likely agree to the change in the second line. I will speak with Apple concerning the addition of the clause beginning "provided that each such person(s) ..."
5. In paragraph 9(b)(ii), I will speak with Apple concerning the addition of the US Steel clause, as well as the addition of similar clauses in paragraphs 12(a), 12(d).

Please let me know when you are available for a call.

Thanks,
 John

From: Hansen, Shawn [mailto:SHansen@manatt.com]
Sent: Friday, November 20, 2009 5:31 PM
To: John Lane
Subject: EMG v. Apple - Protective Order

John,

Please find attached a Word document reflecting EMG's proposed changes to the form of Protective Order you forwarded on November 6, 2009. Also attached is a PDF reflecting the changes in redline form.

Please let me know whether Apple accepts EMG's proposed changes.

Thank you,

Shawn G. Hansen

12/30/2009

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